

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Eugene King,)	Case No. 0:24-cv-03037-JDA
)	
Plaintiff,)	
)	
v.)	<u>OPINION AND ORDER</u>
)	
Lieber Correctional Institution,)	
)	
Defendant.)	
)	

This matter is before the Court on a Report and Recommendation (“Report”) of the Magistrate Judge. [Doc. 12.] In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), D.S.C., this matter was referred to United States Magistrate Judge Paige J. Gossett for pre-trial proceedings.

Plaintiff’s pro se Complaint was entered on the docket on May 15, 2024 [Doc. 1], as was a motion for leave to proceed in forma pauperis [Doc. 2]. On May 24, 2024, the Magistrate Judge issued an Order directing Plaintiff to file the documents necessary to bring the case into proper form for the issuance and service of process. [Doc. 7.] Plaintiff was informed that he is subject to the three-strikes bar under 28 U.S.C. § 1915(g) and is therefore barred from proceeding in forma pauperis and must pay the filing fee for the case to proceed unless he can show he is in imminent danger. [*Id.* at 1.] Plaintiff was also informed that his failure to comply with the Order within the time permitted would subject his case to dismissal for failure to prosecute and for failure to comply with an order of the court under Rule 41 of the Federal Rules of Civil Procedure. [*Id.*] Plaintiff did not respond to the Order within the time prescribed, and on July 8, 2024, the Magistrate Judge

issued a Report recommending that Plaintiff's motion to proceed in forma pauperis be denied and the matter be summarily dismissed for failure to prosecute and failure to comply with the May 24, 2024, Order. [Doc. 12.] The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. [*Id.* at 3.] Plaintiff has filed no objections and the time to do so has lapsed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that "in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation" (internal quotation marks omitted)).

The Court has reviewed the record in this case, the applicable law, and the Report of the Magistrate Judge for clear error. Having done so, the Court accepts the Report and Recommendation of the Magistrate Judge and incorporates it by reference. Accordingly, Plaintiff's motion for leave to proceed in forma pauperis [Doc. 2] is DENIED and this action is summarily DISMISSED without prejudice.

IT IS SO ORDERED.

s/ Jacquelyn D. Austin
United States District Judge

August 5, 2024
Columbia, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.